

HOUSE BILL 884

Q4

9lr2836

By: **Delegate Mosby**

Introduced and read first time: February 8, 2019

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Limited Residential Lodging**

3 FOR the purpose of requiring certain hosting platforms to collect the sales and use tax on
4 the sale of the right to occupy certain lodging accommodations; requiring that the
5 sales and use tax be stated and shown in a certain manner for certain retail sales or
6 sales for use; prohibiting a hosting platform from collecting certain fees unless the
7 sales and use tax is collected in a certain manner; defining certain terms; making
8 conforming changes; and generally relating to requiring certain hosting platforms to
9 collect the sales and use tax on the right to occupy certain lodging accommodations.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 11–101(a), (a–1), (a–3), (h)(1), and (k)(1) and 11–102(a)
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 11–101(a–2) and (o), 11–302, and 11–403
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2018 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 11–101(a–4), (c–2), (c–3), and (c–4)
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2018 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

11–101.

(a) In this title the following words have the meanings indicated.

(a–1) “Accommodation” means a right to occupy a room or lodgings as a transient guest.

(a–2) (1) “Accommodations intermediary” means a person, other than an accommodations provider, who facilitates the sale or use of an accommodation and charges a buyer the taxable price for the accommodation.

(2) **“ACCOMMODATIONS INTERMEDIARY” INCLUDES A HOSTING PLATFORM.**

(3) For purposes of this subsection, a person shall be considered to facilitate the sale or use of an accommodation if the person brokers, coordinates, or in any other way arranges for the sale or use of an accommodation by a buyer.

(a–3) “Accommodations provider” means a person that owns, operates, or manages an accommodation and makes the accommodation available for sale or use to a buyer.

(A–4) “BOOKING TRANSACTION” MEANS ANY TRANSACTION IN WHICH THERE IS A RETAIL SALE OF AN ACCOMMODATION.

(C–2) “HOSTING PLATFORM” MEANS AN INTERNET–BASED DIGITAL ENTITY THAT:

(1) ADVERTISES THE AVAILABILITY OF LIMITED RESIDENTIAL LODGING UNITS FOR RENT; AND

(2) RECEIVES COMPENSATION FOR FACILITATING RESERVATIONS OR PROCESSING BOOKING TRANSACTIONS ON BEHALF OF THE OWNER, OPERATOR, OR MANAGER OF A LIMITED RESIDENTIAL LODGING UNIT.

(C–3) “LIMITED RESIDENTIAL LODGING” MEANS THE TEMPORARY USE OF A LIMITED RESIDENTIAL LODGING UNIT TO PROVIDE ACCOMMODATION TO TRANSIENT GUESTS FOR LODGING PURPOSES IN EXCHANGE FOR CONSIDERATION.

(C–4) (1) “LIMITED RESIDENTIAL LODGING UNIT” MEANS A RESIDENTIAL DWELLING UNIT OR A PORTION OF THE UNIT USED FOR LIMITED RESIDENTIAL LODGING.

1 (2) a use, in the State, of tangible personal property or a taxable service.

2 11-302.

3 (A) For each retail sale or sale for use other than a sale under § 11-405, § 11-406,
4 or § 11-410 of this title, the sales and use tax shall be:

5 (1) stated separately from the sale price; and

6 (2) shown separately from the sale price on any record of a sale:

7 (i) at the time of the sale;

8 (ii) when the vendor issues evidence of the sale; or

9 (iii) when the vendor uses evidence of the sale.

10 (B) **FOR EACH RETAIL SALE OR SALE FOR USE OF AN ACCOMMODATION, THE**
11 **SALES AND USE TAX SHALL BE:**

12 (1) **STATED SEPARATELY FROM THE SALE PRICE;**

13 (2) **SHOWN SEPARATELY FROM THE SALE PRICE ON ANY RECORD OF**
14 **SALE; AND**

15 (3) **STATED SEPARATELY FROM ANY FEES OR CHARGES IMPOSED BY**
16 **AN ACCOMMODATIONS INTERMEDIARY THAT ARE NOT IMPOSED BY OR PAYABLE TO**
17 **AN ACCOMMODATIONS PROVIDER FOR THE USE OF AN ACCOMMODATION:**

18 (I) **AT THE TIME OF THE SALE;**

19 (II) **WHEN THE VENDOR ISSUES EVIDENCE OF THE SALE; OR**

20 (III) **WHEN THE VENDOR USES EVIDENCE OF THE SALE.**

21 11-403.

22 (a) **IN THIS SECTION, “SALE” INCLUDES A BOOKING TRANSACTION MADE**
23 **THROUGH A HOSTING PLATFORM.**

24 (B) Except as otherwise provided in this subtitle, a vendor shall collect the
25 applicable sales and use tax from the buyer:

26 (1) at the time that the sale is made, regardless of when the taxable price
27 is paid;

1 (2) if the tax is based on a credit or installment sale, at the time that the
2 Comptroller requires by regulation; or

3 (3) if a sale for use is not taxable when the sale is made, at the time that
4 the use becomes taxable.

5 **[(b)] (C)** Except as otherwise provided in this title, unless a buyer is otherwise
6 required by regulation to pay the sales and use tax directly to the Comptroller, the buyer
7 shall pay the sales and use tax to the vendor at the time required under subsection **[(a)]**
8 **(B)** of this section.

9 **[(c)] (D)** A vendor shall refund to a buyer the proportionate amount of sales and
10 use tax that the buyer has paid if:

11 (1) (i) a sale is rescinded or canceled; or

12 (ii) the property sold is returned to the vendor; and

13 (2) the purchase price is wholly or partially repaid or credited.

14 **(E) A HOSTING PLATFORM MAY NOT COLLECT A FEE FROM THE BUYER OF**
15 **AN ACCOMMODATION OR AN ACCOMMODATION PROVIDER AS PART OF A BOOKING**
16 **TRANSACTION UNLESS THE SALES AND USE TAX IS COLLECTED IN ACCORDANCE**
17 **WITH SUBSECTION (B) OF THIS SECTION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
19 1, 2019.